

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

CASE NO.:

JUSTINE BODMER, on her own behalf
and others similarly situated,

Plaintiff,

v.

WELLS FARGO BANK, N.A., a Foreign Corporation,

Defendant.

COMPLAINT & DEMAND FOR JURY TRIAL

1. Plaintiff, JUSTINE BODMER ("Plaintiff"), was an employee of Defendant, WELLS FARGO BANK, N.A. ("WELLS FARGO" or "Defendant"), and brings this action for unpaid overtime compensation, declaratory relief, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (the "FLSA"). Plaintiff was a home mortgage consultant and performed related activities for Defendant in Lee County, Florida.

2. Defendant, WELLS FARGO, is a foreign corporation that operates and conducts business in, among others, Lee County, Florida, and is therefore, within the jurisdiction of this Court.

3. This action is brought under the FLSA to recover from Defendant overtime compensation, liquidated damages, and reasonable attorneys' fees and costs. This action is intended to include each and every employee who worked for the Defendant at any time within the past three (3) years within the State of Florida.

4. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1337 and the FLSA and the authority to grant declaratory relief under the FLSA pursuant to 28 U.S.C. § 2201 et seq.

5. At all material times relevant to this action, Defendant was an enterprise covered by the FLSA, and as defined by 29 U.S.C. § 203(r) and 203 (s). Additionally, Plaintiff was engaged in interstate commerce during her employment with Defendant.

6. At all times relevant to this action, Defendant failed to comply with 29 U.S.C. §§ 201-209, because Plaintiff, and those similarly situated to her, performed services for Defendant for which no provisions were made by Defendant to properly pay Plaintiff, and those similarly situated to her, for those hours worked in excess of forty (40) within a work week.

7. During their employment with Defendant, Plaintiff, and those similarly situated to her, were not paid time and one-half their regular rate of pay for all hours worked in excess of forty (40) per work week during one or more work weeks.

8. Upon information and belief, the records, to the extent any exist, concerning the number of hours worked and amounts paid to Plaintiff, and others similarly situated to her, are in the possession and custody of Defendant.

RECOVERY OF OVERTIME COMPENSATION

9. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-8 above.

10. Plaintiff, and those similarly situated to her, are/were entitled to be paid time and one-half their regular rate of pay for each hour worked in excess of forty (40) per work week. During their employment with Defendant, Plaintiff, and those similarly situated to her, regularly worked overtime hours but were not paid time and one half compensation for same.

11. As a result of Defendant's intentional, willful, and unlawful acts in refusing to pay Plaintiff, and those similarly situated to her, time and one half their regular rate of pay for each hour worked in excess of forty (40) per work week in one or more work weeks, Plaintiff, and

those similarly situated to her, have suffered damages plus incurring reasonable attorneys' fees and costs.

12. As a result of Defendant's willful violation of the FLSA, Plaintiff, and those similarly situated to her, are entitled to liquidated damages.

13. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff, and all other similarly situated employees, demand judgment against Defendant for the payment of all overtime hours at one and one-half the regular rate of pay for the hours worked by them for which Defendant did not properly compensate them, liquidated damages, reasonable attorneys' fees and costs incurred in this action, declaratory relief, and any and all further relief that this Court determines to be just and appropriate.

DATED this 2nd day of August 2007.

A handwritten signature in black ink, reading "Andrew Frisch", written over a horizontal line.

Andrew Frisch
FL Bar No.: 27777
MORGAN & MORGAN
7450 Griffin Road, Suite 230
Davie, Fl 33314
Tel: 954-318-0268
Fax: 954-333-3515
E-mail: afrisch@forthepeople.com

Trial Counsel for Plaintiff

MDLOUT

**U.S. District Court
Middle District of Florida (Ft. Myers)
CIVIL DOCKET FOR CASE #: 2:08-cv-00074-MMH-SPC**

Bodmer v. Wells Fargo Bank, N.A.
Assigned to: Judge Marcia Morales Howard
Referred to: Magistrate Judge Sheri Polster Chappell
Cause: 29:206 Collect Unpaid Wages

Date Filed: 01/28/2008
Date Terminated: 04/21/2008
Jury Demand: Both
Nature of Suit: 710 Labor: Fair
Standards
Jurisdiction: Federal Question

Plaintiff

Justine Bodmer
*on her own behalf and others similarly
situated*

represented by **Andrew Ross Frisch**
Morgan & Morgan, PA
Suite 230
7450 Griffin Rd
Davie, FL 33324
954-318-0268
Fax: 954-333-3515
Email: afrisch@forthepeople.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Wells Fargo Bank, N.A.
a Foreign Corporation

represented by **Jonathan A. Beckerman**
Littler Mendelson, PC
1 Biscayne Twr - Ste 1500
2 S Biscayne Blvd
Miami, FL 33131
305/400-7500
Fax: 305/418-7368
Email: jabeckerman@littler.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|--------------------------|--|
| 01/28/2008 | <u>1</u> | COMPLAINT against Wells Fargo Bank, N.A. ; jury demand (Filing fee \$ 350 receipt number F10454) filed by Justine Bodmer.(kma) (Entered: 01/30/2008) |
| 01/28/2008 | <u>2</u> | NOTICE of filing notice of consent to join by Justine Bodmer (kma) (Entered: 01/30/2008) |

| | | |
|------------|--------------------|--|
| | | 01/30/2008) |
| 01/28/2008 | | Summons issued as to Wells Fargo Bank, N.A. (kma) (Entered: 01/30/2008) |
| 01/30/2008 | 3 | STANDING ORDER: Filing of documents that exceed twenty-five pages. Signed by All Divisional Judges on 03/27/2007. (kma) (Entered: 01/30/2008) |
| 01/31/2008 | 4 | RELATED CASE ORDER AND NOTICE of designation under Local Rule 3.05 - track 2. Notice of pendency of other actions due by 2/11/2008. Signed by All Divisional Judges on 1/31/2008. (LAG) (Entered: 01/31/2008) |
| 01/31/2008 | 5 | INTERESTED PERSONS ORDER. Certificate of interested persons and corporate disclosure statement due by 2/11/2008. Signed by All Divisional Judges on 1/31/2008. (LAG) (Entered: 01/31/2008) |
| 02/11/2008 | 6 | NOTICE of pendency of related cases re 4 Related case order and notice of designation of track 2 per Local Rule 1.04(d) by Justine Bodmer. Related case (s): no (Frisch, Andrew) (Entered: 02/11/2008) |
| 02/11/2008 | 7 | CERTIFICATE of interested persons and corporate disclosure statement re 5 Interested persons order by Justine Bodmer. (Frisch, Andrew) (Entered: 02/11/2008) |
| 02/15/2008 | 8 | RETURN of service executed on 1/31/08 by Justine Bodmer as to Wells Fargo Bank, N.A.. (Frisch, Andrew) (Entered: 02/15/2008) |
| 02/20/2008 | 9 | ANSWER and affirmative defenses to 1 Complaint with Jury Demand by Wells Fargo Bank, N.A..(Beckerman, Jonathan) (Entered: 02/20/2008) |
| 02/26/2008 | 10 | NOTICE by Wells Fargo Bank, N.A. <i>Notice to the Clerk of the Court</i> (Attachments: # 1 Attachment 1)(Beckerman, Jonathan) (Entered: 02/26/2008) |
| 04/08/2008 | 11 | INTERESTED PERSONS ORDER. Certificate of interested persons and corporate disclosure statement due by 4/21/2008 as to the Defendant. Signed by All Divisional Judges on 4/8/2008. (LAG) (Entered: 04/08/2008) |
| 04/18/2008 | 12 | CERTIFICATE of interested persons and corporate disclosure statement re 11 Interested persons order by Wells Fargo Bank, N.A.. (Beckerman, Jonathan) (Entered: 04/18/2008) |
| 04/21/2008 | 13 | MULTIDISTRICT LITIGATION panel order transferring case to: Northern District of California Transferee court case number: 2:08-cv-74-FtM-34SPC MDL case number: 1770. (JS) (Entered: 04/28/2008) |

| | | | |
|-----------------------------|---------------|-------------------------|-----------------------|
| PACER Service Center | | | |
| Transaction Receipt | | | |
| 05/06/2008 13:00:16 | | | |
| PACER Login: | us4077 | Client Code: | |
| Description: | Docket Report | Search Criteria: | 2:08-cv-00074-MMH-SPC |
| | | | |

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| Billable Pages: | 2 | Cost: | 0.16 |
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

CASE NO.:

JUSTINE BODMER, on her own behalf
and others similarly situated,

Plaintiff,

v.

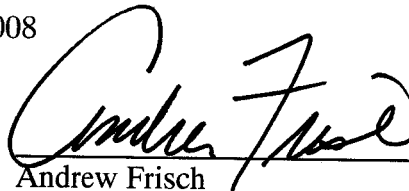
WELLS FARGO BANK, N.A., a Foreign Corporation,

Defendant.

NOTICE OF FILING NOTICE OF CONSENT TO JOIN

Plaintiff, JUSTINE BODMER, gives notice of filing her Notice of Consent to
Join the above-styled lawsuit.

DATED this 2nd day of January, 2008



Andrew Frisch

FL Bar No.: 27777

MORGAN & MORGAN, P.A.

7450 Griffin Road, Suite 230

Davie, FL 33314

Tel: 954-318-0268

Fax: 954-333-3515

E-Mail: afrisch@forthepeople.com

Trial Counsel for Plaintiffs

MORGAN & MORGAN

A PROFESSIONAL ASSOCIATION

Attorneys

At Law

NOTICE OF CONSENT TO JOIN

Pursuant to 29 U.S.C. § 216(b), I, Justine Bodmer, consent to become a party plaintiff in this action.

12-13-07
DATE

X 
CLIENT SIGNATURE

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

**JUSTINE BODMER on her own behalf and
others similarly situated,**

Plaintiff,

v.

Case No. 2:08-cv-74-FtM-34SPC

**WELLS FARGO BANK, N.A. a Foreign
Corporation,**

Defendant.

**RELATED CASE ORDER
AND TRACK TWO NOTICE**

It is hereby **ORDERED** that, no later than eleven days from the date of the filing of the complaint (or a copy of a notice of removal) in this Court, counsel and any *pro se* party shall comply with Local Rule 1.04(d), and shall file and serve a certification as to whether the instant action should be designated as a similar or successive case pursuant to Local Rule 1.04(a) or (b). The parties shall utilize the attached form **NOTICE OF PENDENCY OF OTHER ACTIONS**. It is

FURTHER ORDERED that, in accordance with Local Rule 3.05, this action is designated a **Track Two** case. All parties must comply with the requirements established in Local Rule 3.05 for Track Two cases. Counsel and any unrepresented party shall meet within sixty days after service of the complaint upon any defendant for the purpose of preparing and filing a Case Management Report. The parties shall utilize the **attached CASE MANAGEMENT REPORT** form. Unless otherwise ordered by the Court, a party may not seek discovery from any source before the meeting.

Fed. R. Civ. P. 26 (d); Local Rule 3.05(c)(2)(B). *Plaintiff (or defendant in a removal case) is responsible for serving a copy of this notice and order with attachments upon each party no later than eleven days after appearance of the party.*

January 31, 2008

JOHN E. STEELE

John E. Steele
United States District Court Judge

MARCIA MORALES HOWARD

Marcia Morales Howard
United States District Court Judge

DOUGLAS N. FRAZIER

Douglas N. Frazier
United States Magistrate Judge

SHERI POLSTER CHAPPELL

Sheri Polster Chappell
United States Magistrate Judge

Attachments: Notice of Pendency of Other Actions [mandatory form]
Case Management Report [mandatory form]

| |
|---|
| <p>Note: A Magistrate Consent form, Local Rules and PacerNet can be found on the Court's website at http://www.flmd.uscourts.</p> |
|---|

Copies: All Parties of Record

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

JUSTINE BODMER on her own behalf and others
similarly situated,

Plaintiff,

v.

Case No. 2:08-cv-74-FtM-34SPC

**WELLS FARGO BANK, N.A. a Foreign
Corporation,**

Defendant.

NOTICE OF PENDENCY OF OTHER ACTIONS

In accordance with Local Rule 1.04(c), I certify that the instant action:

_____ IS related to pending or closed civil or criminal case(s) previously filed in this Court, or any other Federal or State court, or administrative agency as indicated below:

_____ IS NOT related to any pending or closed civil or criminal case filed with this Court, or any other Federal or State court, or administrative agency.

I further certify that I will serve a copy of this NOTICE OF PENDENCY OF OTHER ACTIONS upon each party no later than eleven days after appearance of the party.

Dated:

[Counsel of Record or *Pro Se* Party]
[Address and Telephone]

[Counsel of Record or *Pro Se* Party]
[Address and Telephone]

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

**JUSTINE BODMER on her own behalf and
others similarly situated,**

Plaintiff,

v.

Case No. 2:08-cv-74-FtM-34SPC

**WELLS FARGO BANK, N.A. a Foreign
Corporation,**

Defendant.

CASE MANAGEMENT REPORT

The parties have agreed on the following dates and discovery plan pursuant to
Fed.R.Civ.P. 26(f) and Local Rule 3.05(c):

| DEADLINE OR EVENT | AGREED DATE |
|--|--------------------|
| Mandatory Initial Disclosures (pursuant to Fed.R.Civ.P. 26(a)(1) as amended effective December 1, 2000) [Court recommends 30 days after CMR meeting] | |
| Certificate of Interested Persons and Corporate Disclosure Statement [each party who has not previously filed must file immediately] | |
| Motions to Add Parties or to Amend Pleadings [Court recommends 1 - 2 months after CMR meeting] | |

| DEADLINE OR EVENT | AGREED DATE |
|--|-------------|
| Disclosure of Expert Reports Plaintiff: Defendant: [Court recommends last exchange 6 months before trial and 1 - 2 months before discovery deadline to allow expert depositions] | |
| Discovery Deadline [Court recommends 5 months before trial to allow time for dispositive motions to be filed and decided; all discovery must be commenced in time to be completed before this date] | |
| Dispositive Motions, <i>Daubert</i>, and <i>Markman</i> Motions [Court requires 4 months or more before trial term begins] | |
| Final Pretrial Conference | |
| Trial Term Begins [Local Rule 3.05 (c)(2)(E) sets goal of trial within 1 year of filing complaint in most Track Two cases, and within 2 years in all Track Two cases; trial term <i>must not</i> be less than 4 months after dispositive motions deadline (unless filing of such motions is waived); district judge trial terms begin on the first business day of each month; trials before magistrate judges will be set on a date certain after consultation with the parties] | |
| Estimated Length of Trial [trial days] | |
| Jury / Non-Jury | |
| Mediation Deadline: Mediator: Address: Telephone: [Absent arbitration, mediation is <i>mandatory</i> ; Court recommends either 2 - 3 months after CMR meeting, or just after discovery deadline] | |

III. Pre-Discovery Initial Disclosures of Core Information

Fed.R.Civ.P. 26(a)(1)(A) - (D) Disclosures

Fed.R.Civ.P. 26, as amended effective December 1, 2000, provides that these disclosures are mandatory in Track Two and Track Three cases, except as stipulated by the parties or otherwise ordered by the Court (the amendment to Rule 26 supersedes Middle District of Florida Local Rule 3.05, to the extent that Rule 3.05 opts out of the mandatory discovery requirements):

The parties _____ have exchanged _____ agree to exchange (check one)

information described in Fed.R.Civ.P. 26(a)(1)(A) - (D)

_____ on _____ by _____ (check one) _____ (date).

Below is a description of information disclosed or scheduled for disclosure.

IV. Agreed Discovery Plan for Plaintiffs and Defendants

A. Certificate of Interested Persons and Corporate Disclosure Statement

—

This Court has previously ordered each party, governmental party, intervenor, non-party movant, and Rule 69 garnishee to file and serve a Certificate of Interested Persons and Corporate Disclosure Statement using a mandatory form. No party may seek discovery from any source before filing and serving a Certificate of Interested Persons and Corporate Disclosure Statement. A motion, memorandum, response, or other paper — including emergency motion — is subject to being denied or stricken unless the filing party has previously filed and served its Certificate of Interested

Persons and Corporate Disclosure Statement. Any party who has not already filed and served the required certificate is required to do so immediately.

Every party that has appeared in this action to date has filed and served a Certificate of Interested Persons and Corporate Disclosure Statement, which remains current:

_____ Yes

_____ No

Amended Certificate will be filed by

_____ (party) on or before

_____ (date).

B. Discovery Not Filed —

The parties shall not file discovery materials with the Clerk except as provided in Local Rule 3.03. The Court encourages the exchange of discovery requests on diskette. See Local Rule 3.03 (e). The parties further agree as follows:

C. Limits on Discovery —

Absent leave of Court, the parties may take no more than ten depositions per side (not per party). Fed.R.Civ.P. 30(a)(2)(A); Fed.R.Civ.P. 31(a)(2)(A). Absent leave of Court, the parties may serve no more than twenty-five interrogatories, including sub-parts. Fed.R.Civ.P. 33(a). The parties may agree by stipulation on other limits on discovery. The Court will consider the parties' agreed dates, deadlines, and other limits in entering the

scheduling order. Fed.R.Civ.P. 29. In addition to the deadlines in the above table, the parties have agreed to further limit discovery as follows:

1. Depositions
2. Interrogatories
3. Document Requests
4. Requests for Admissions
5. Supplementation of Discovery

D. Discovery Deadline —

Each party shall timely serve discovery requests so that the rules allow for a response prior to the discovery deadline. The Court may deny as untimely all motions to compel filed after the discovery deadline. In addition, the parties agree as follows:

E. Disclosure of Expert Testimony —

On or before the dates set forth in the above table for the disclosure of expert reports, the parties agree to fully comply with Fed.R.Civ.P. 26(a)(2) and 26(e). Expert testimony on direct examination at trial will be limited to the opinions, basis, reasons, data, and other information disclosed in the written expert report disclosed pursuant to this order. Failure to disclose such information may result in the exclusion of all or part of the testimony of the expert witness. The parties agree on the following additional matters pertaining to the disclosure of expert testimony:

F. Confidentiality Agreements —

Whether documents filed in a case may be filed under seal is a separate issue from whether the parties may agree that produced documents are confidential. The Court is a public forum, and disfavors motions to file under seal. The Court will permit the parties to file documents under seal only upon a finding of extraordinary circumstances and particularized need. See *Brown v. Advantage Engineering, Inc.*, 960 F.2d 1013 (11th Cir. 1992); *Wilson v. American Motors Corp.*, 759 F.2d 1568 (11th Cir. 1985). A party seeking to file a document under seal must file a motion to file under seal requesting such Court action, together with a memorandum of law in support. The motion, whether granted or denied, will remain in the public record.

The parties may reach their own agreement regarding the designation of materials as “confidential.” There is no need for the Court to endorse the confidentiality agreement. The Court discourages unnecessary stipulated motions for a protective order. The Court will enforce appropriate stipulated and signed confidentiality agreements. See Local Rule 4.15. Each confidentiality agreement or order shall provide, or shall be deemed to provide, that “no party shall file a document under seal without first having obtained an order granting leave to file under seal on a showing of particularized need.” With respect to confidentiality agreements, the parties agree as follows:

G. Disclosure or Discovery of Electronically Stored Information and Assertion of Claims of Privilege —

Pursuant to Fed.R.Civ.P. 16(b)(5) and (6), the parties have made the following agreements regarding the disclosure and discovery of electronically stored information as well as the assertion of claims of privilege or protection of trial preparation materials after production:

H. Other Matters Regarding Discovery —

V. Settlement and Alternative Dispute Resolution.

A. Settlement —

The parties agree that settlement is
_____ likely _____ unlikely (check one)

The parties request a settlement conference before a United States Magistrate Judge.

_____ yes _____ no _____ likely to request in future

B. Arbitration —

Local Rule 8.02(a) defines those civil cases that will be referred to arbitration automatically. Does this case fall within the scope of Local Rule 8.02(a)?

_____ yes _____ no

For cases **not** falling within the scope of Local Rule 8.02(a), the parties consent to arbitration pursuant to Local Rules 8.02(a)(3) and 8.05(b): _____yes _____no
_____likely to agree in future
_____ Binding _____ Non-Binding

In any civil case subject to arbitration, the Court may substitute mediation for arbitration upon a determination that the case is susceptible to resolution through mediation. Local Rule 8.02(b). The parties agree that this case is susceptible to resolution through mediation, and therefore jointly request mediation in place of arbitration:

_____yes _____no _____likely to agree in future

C. Mediation —

Absent arbitration or a Court order to the contrary, the parties in every case will participate in Court-annexed mediation as detailed in Chapter Nine of the Court's Local Rules. The parties have agreed on a mediator from the Court's approved list of mediators as set forth in the table above, and have agreed to the date stated in the table above as the last date for mediation. The list of mediators is available from the Clerk, and is posted on the Court's web site at <http://www.flmd.uscourts.gov>.

D. Other Alternative Dispute Resolution —

The parties intend to pursue the following other methods of alternative dispute resolution:

Date: _____

Signature of Counsel (with information required by Local Rule 1.05(d)) and Signature of Unrepresented Parties.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

**JUSTINE BODMER on her own behalf and
others similarly situated,**

Plaintiff,

v.

Case No. 2:08-cv-74-FtM-34SPC

**WELLS FARGO BANK, N.A. a Foreign
Corporation,**

Defendant.

**INTERESTED PERSONS ORDER
FOR CIVIL CASES**

This Court makes an active effort to screen every case in order to identify parties and interested corporations in which any assigned judge may be a shareholder, as well as for other matters that might require consideration of recusal. It is therefore

ORDERED that, within **eleven** days¹ from the date of this order (or from the date of subsequent first appearance² in this action), each party, *pro se* party, governmental party, intervenor, non-party movant, and Rule 69 garnishee **shall file and serve** a Certificate of Interested Persons and Corporate Disclosure Statement. (See Attachment A)

FURTHER ORDERED that no party may seek discovery from any source before filing and serving a. A motion, memorandum, response, or other paper — including emergency motion —

¹Intermediate Saturdays, Sundays, and specified legal holidays are *included* in the computation of periods of eleven days or more. *See* Fed.R.Civ.P. 6(a); Local Rule 4.20. If this order was served by mail, add three days to the prescribed period. Fed.R. Civ.P 6(e); Local Rule 4.20(a)(2). Service by facsimile constitutes a method of hand delivery for the purpose of computing the time within which any response is required. Local Rule 1.07(c).

²Every pleading or paper filed constitutes a general appearance of the party unless otherwise specified. Local Rule 2.03(a).

may be denied or stricken unless the filing party has previously filed and served its Certificate of Interested Persons and Corporate Disclosure Statement.

FURTHER ORDERED that each party has a continuing obligation to file and serve an amended Certificate of Interested Persons and Corporate Disclosure Statement within eleven days of 1) discovering any ground for amendment, including notice of case reassignment to a different judicial officer; or 2) discovering any ground for recusal or disqualification of a judicial officer. A party should not routinely list an assigned district judge or magistrate judge as an “interested person” absent some non-judicial interest.

FURTHER ORDERED that, in order to assist the Court in determining when a conflict of interest may exist, particularly when ruling on matters formally assigned to another judge, each party shall use the full caption of the case — including the names of all parties and intervenors — on all motions, memoranda, papers, and proposed orders submitted to the Clerk. *See* Fed.R.Civ.P. 10(a);

Local Rule 1.05(b) (“*et al.*” discouraged). _____
January 31, 2008

JOHN E. STEELE

John E. Steele
United States District Court Judge

MARCIA MORALES HOWARD

Marcia Morales Howard
United States District Court Judge

DOUGLAS N. FRAZIER

Douglas N. Frazier
United States Magistrate Judge

SHERI POLSTER CHAPPELL

Sheri Polster Chappell
United States Magistrate Judge

ATTACHMENT A

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT

I hereby disclose the following pursuant to this Court's interested persons order:

1. The name of each person, attorney, association of persons, firm, law firm, partnership, and corporation that has or may have an interest in the outcome of this action — including subsidiaries, conglomerates, affiliates, parent corporations, publicly-traded companies that own 10% or more of a party's stock, and all other identifiable legal entities related to *any* party in the case:

[insert list]

2. The name of every other entity whose publicly-traded stock, equity, or debt may be substantially affected by the outcome of the proceedings:

[insert list]

3. The name of every other entity which is likely to be an active participant in the proceedings, including the debtor and members of the creditors' committee (or twenty largest unsecured creditors) in bankruptcy cases:

[insert list]

4. The name of each victim (individual or corporate) of civil and criminal conduct alleged to be wrongful, including every person who may be entitled to restitution:

[insert list]

I hereby certify that, except as disclosed above, I am unaware of any actual or potential conflict of interest involving the district judge and magistrate judge assigned to this case, and will immediately notify the Court in writing on learning of any such conflict. I further certify that I have inserted "None" if there is no actual or potential conflict of interest.

[Date]

[Counsel of Record or *Pro Se* Party]
[Address and Telephone]

[Certificate of Service]

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

JUSTINE BODMER, on her own behalf
and others similarly situated,

Plaintiff,

v.

CASE NO.: 2:08-cv-00074-MMH-SPC

WELLS FARGO BANK, N.A., a Foreign Corporation,

Defendant.

_____ /

NOTICE OF PENDENCY OF OTHER ACTIONS

In accordance with Local Rule 1.04 (c), I certify that the instant action:

_____ IS related to pending or closed civil or criminal case(s) previously filed in this Court, or any other Federal or State Court, or administrative agency as indicated below:

X IS NOT related to any pending or closed civil or criminal case filed with this Court, or any other Federal or State court, or administrative agency.

DATED this 11th day of February 2008.

Respectfully submitted,

/s ANDREW FRISCH

ANDREW FRISCH

FL Bar No.: 27777

MORGAN & MORGAN

7450 Griffin Road, Suite 230

Davie, Florida 33324

Tel: 954-318-0268

Fax: 954-333-3515

E-Mail: AFrisch@forthepeople.com

Trial Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via U.S. Mail to Corporation Service Company, Registered Agent for Defendant, 1201 Hays Street, Tallahassee, FL 32301, this 11th day of February 2008.

/s ANDREW FRISCH
ANDREW FRISCH

VERIFIED RETURN OF SERVICE

STATE OF FLORIDA MIDDLE DISTRICT OF FLORIDA U.S. DISTRICT COURT

Case Number: 2:08-CV-74-FTM-34SPC

Plaintiff: JUSTINE BODMER, ETC., ET AL.

vs.

Defendant: WELLS FARGO BANK, N.A.

For: ANDREW FRISCH MORGAN & MORGAN

Received by GISSEN & ZAWYER PROCESS SERVICE on 1/31/08 at 10:00 am,
to be served on: WELLS FARGO BANK, N.A. at REG. AGENT: CORPORATION SERVICE COMPANY, 1201
HAYS ST., TALLAHASSEE, FL 32301.

I, ERIC LARSON, who, being duly sworn, depose and say that
on 1/31/08 at 2:00 pm,

I executed service by delivering a true copy of the
SUMMONS AND COMPLAINT, CIVIL COVER SHEET, NOTICE OF FILING CONSENT TO JOIN
in accordance with state statutes in the manner stated below:
REGISTERED AGENT SERVICE: By serving pursuant to F.S. 48.091

Served: GWEN BUTLER
Clerk, for R.A.

COMMENTS:

I certify that I have no interest in the above action, am of legal age and have proper
authority in the jurisdiction in which this service was made. I declare, under penalties of
perjury pursuant to f.s. 92.525, that I have read the foregoing document and that the facts
stated in it are true to the best of my knowledge and belief.



ERIC LARSON

PROCESS SERVER # 063

2ND JUDICIAL CIRCUIT

Appointed in accordance
with State Statutes

GISSEN & ZAWYER PROCESS SERVICE
3550 BISCAYNE BLVD.
STE. 407
MIAMI FL 33137
(305) 572-0110

JOB SERIAL NUMBER:1852

United States District Court

MIDDLE DISTRICT OF FLORIDA

FT. MYERS DIVISION

SUMMONS IN A CIVIL CASE

CASE NO.:

JUSTINE BODMER, on her own behalf
and others similarly situated,

Plaintiff,

2: 08 - CV - 74 - FtM - 34SPC

v.

WELLS FARGO BANK, N.A., a Foreign Corporation,

Defendant.

TO: WELLS FARGO BANK, N.A.
Corporation Service Company, Registered Agent
1201 Hays Street
Tallahassee, FL 32301

1-31-8 2008
Eric Larson
Cert. Process Server # 063
2nd Judicial Circuit

ERIC LARSON & ZAWER
PROCESS SERVICE, INC.
3550 BISCAYNE BLVD.
SUITE 407
MIAMI, FL 33137
305-572-0110

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S
ATTORNEY:

Andrew Frisch, Esq.
MORGAN & MORGAN, P.A.
7450 Griffin Road, Suite 230
Ft. Lauderdale, Florida 33314
Telephone: 1-877-435-9243
Facsimile: 954-333-3515

an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint. You also must file your answer with the Clerk of the Court within a reasonable period of time after service. Additionally served - Notice of Filing

Sheryl L. Loesch
Clerk of Court
CLERK
By: Sheryl L. Loesch
(Deputy Clerk)

1/28/08
DATE

U.S. District Court for the District of Columbia
 Return of Service on a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me on

DATE

NAME OF SERVER (PRINT)

TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served:
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
 Name of person with whom the summons and complaint were left:
- ☐ Returned unexecuted
- ☐ Other (specify):

STATEMENT OF SERVICE FEES

AMOUNT

SERVICES

TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

Date

Signature of Server

Address of Server

**UNITED STATE DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

JUSTINE BODMER, on her own behalf
and others similarly situated,

Plaintiff,

v.

CASE NO. 2:08-CV-00074-MMH-SPC

WELLS FARGO BANK, N.A., a Foreign
Corporation,

Defendant.

**ANSWER OF WELLS FARGO HOME MORTGAGE, A DIVISION
OF WELLS FARGO BANK, N.A. TO COMPLAINT FOR JURY TRIAL**

Defendant Wells Fargo Home Mortgage, a division of Wells Fargo Bank, National Association (“Wells Fargo”), on behalf of itself only hereby answers the Complaint (the “Complaint”) of Plaintiff Justine Bodmer (“Plaintiffs”) as follows:

1. As to the allegations in Paragraph 1 of the Complaint, Wells Fargo admits that Plaintiff is a home mortgage consultant for Wells Fargo Home Mortgage.

2. As to the allegations in Paragraph 2 of the Complaint, Wells Fargo admits that it is a national banking association with its main office in Sioux Falls, South Dakota, and that it operates and conducts business in Lee County, Florida. Wells Fargo denies that jurisdiction is proper in this Court because, as a tag-along action defined by Multidistrict Litigation Rule 1.1, this action is subject to the Order of the Judicial Panel on Multidistrict Litigation, dated June 15, 2006, transferring all such cases to the Northern District of California in the *In Re Wells Fargo Home Mortgage Overtime Pay Litigation*, MDL Case No. 1770, pursuant to 28 U.S.C. § 1407.

3. As to the allegations in Paragraph 3 of the Complaint, these contain statements to which no response is required. To the extent that a response is required, Wells Fargo denies the allegations contained in this paragraph.

4. As to the allegations in Paragraph 4 of the Complaint, these contain statements to which no response is required. To the extent that a response is required, Wells Fargo denies the allegations contained in this paragraph.

5. As to the allegations in Paragraph 5 of the Complaint, Wells Fargo admits that it is covered by the Fair Labor Standards Act (“FLSA”). Except as expressly admitted, Wells Fargo denies the allegations contained in Paragraph 5.

6. As to the allegations in Paragraph 6 of the Complaint, Wells Fargo denies the allegations.

7. As to the allegations in Paragraph 7 of the Complaint, Wells Fargo admits that it properly classified Plaintiff, and those similarly situated to her, as exempt employees and thus had no legal obligation to pay overtime for any hours they worked in excess of forty hours per week. Except as expressly admitted, Wells Fargo denies the allegations contained in the paragraph.

8. As to the allegations in Paragraph 8 of the Complaint, Wells Fargo admits that it properly classified its HMCs as exempt employees and thus had no obligation to record the specific hours worked by HMCs. Except as expressly admitted, Wells Fargo denies the allegations contained in the paragraph.

9. As to the allegations in Paragraph 9 of the Complaint, Wells Fargo incorporates by reference its Answer to the allegations set forth in the preceding paragraphs.

10. As to the allegations in Paragraph 10 of the Complaint, Wells Fargo denies them.

11. As to the allegations in Paragraph 11 of the Complaint, Wells Fargo denies them, and also denies the bases for any request for damages contained therein.

12. As to the allegations in Paragraph 12 of the Complaint, Wells Fargo denies them, and also denies the bases for any request for damages contained therein.

13. As to the allegations in Paragraph 13 of the Complaint, these contain statements to which no response is required.

DEFENSES

In further answer to the Complaint, and as separate and distinct affirmative and other defenses, Wells Fargo alleges the following defenses. In asserting these defenses, Wells Fargo does not assume the burden of proof as to matters that, as a matter of law, are Plaintiff's burden to prove.

FIRST DEFENSE

Pursuant to 28 U.S.C. § 1407, jurisdiction is not proper in this Court because, as a tag-along action defined by Multidistrict Litigation Rule 1.1, this action is subject to the Order of the Judicial Panel on Multidistrict Litigation, dated June 15, 2006, transferring all such cases to the Northern District of California in the *In Re Wells Fargo Home Mortgage Overtime Pay Litigation*, MDL Case No. 1770.

SECOND DEFENSE

The Complaint, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a claim for relief upon which any relief may be granted.

THIRD DEFENSE

The Complaint, and each purported cause of action alleged therein, is barred to the extent Representative Plaintiffs and/or the members of the alleged putative group they purport to represent have released Wells Fargo from any claims they may have against it.¹

FOURTH DEFENSE

The Complaint, and each purported cause of action alleged therein, is barred because Plaintiffs and/or the members of the alleged putative group they purport to represent were and are properly classified as exempt employees under the outside sales, commissioned sales, executive, administrative and/or highly compensated exemptions.

FIFTH DEFENSE

Plaintiffs and/or the members of the putative group they purport to represent are precluded from recovering any amounts from Wells Fargo where Wells Fargo has paid Plaintiffs and/or the members of the alleged putative group they purport to represent all sums legally due under the FLSA.

SIXTH DEFENSE

The Complaint, and each purported cause of action alleged therein, is barred because Plaintiffs and/or the members of the alleged putative group they purport to represent misperformed their respective duties and/or failed to perform the duties which Wells Fargo realistically expected them to perform.

¹ Wells Fargo expressly denies the existence of any alleged putative group of persons that Plaintiffs purport to represent in this lawsuit. Wells Fargo incorporates (as if fully set forth therein) this express denial each and every time it mentions the alleged putative group in this pleading.

SEVENTH DEFENSE

Some or all of the disputed time for which Plaintiffs and/or the members of the alleged putative group they purport to represent seek to recover (of wages purportedly owed) is not compensable pursuant to the doctrine of *de minimis non curat lex*.

EIGHTH DEFENSE

The Complaint, and each purported cause of action alleged therein, is barred by the provisions of the Portal-to-Portal Act (29 U.S.C. § 254) as to all hours which Plaintiffs and/or members of the alleged putative group they purport to represent were engaged in preliminary or postliminary activities.

NINTH DEFENSE

Plaintiffs cannot satisfy the prerequisites for a collective action and therefore cannot represent the interests of others.

TENTH DEFENSE

Plaintiffs lack standing to assert the legal rights or interests of others.

ELEVENTH DEFENSE

The types of claims alleged by Plaintiffs on behalf of themselves and/or the alleged putative group they purport to represent are matters in which individual questions predominate.

TWELFTH DEFENSE

The purported causes of action alleged by Plaintiffs are neither common to nor typical of those, if any, of the alleged putative group that Plaintiffs purport to represent.

THIRTEENTH DEFENSE

Plaintiffs are not similarly situated to other potential members of the alleged putative group they purport to represent and thus are inadequate representatives of the alleged putative group.

FOURTEENTH DEFENSE

Certain of the interests of the alleged putative group that Plaintiffs purport to represent are in conflict with the interests of all or certain sub-groups of the members of the alleged putative group.

FIFTEENTH DEFENSE

The alleged putative group that Plaintiffs purport to represent cannot proceed collectively under 29 U.S.C. section 216(b), because they are not similarly situated.

SIXTEENTH DEFENSE

Plaintiffs have not shown and cannot show that their Complaint is a superior means of adjudicating the controversy.

SEVENTEENTH DEFENSE

The Complaint, and each purported cause of action alleged therein, cannot proceed as a purported collective or class action because difficulties likely to be encountered render the action unmanageable.

EIGHTEENTH DEFENSE

To the extent liability, affirmative defenses and/or damages, if any, to each member of the alleged group Plaintiffs purport to represent are not determined by a single jury or is determined on a group-wide basis, permitting this action to proceed as a collective or class action

violates Wells Fargo's rights under the Fifth, Seventh, Eighth and Fourteenth Amendments to the United States Constitution and Article 1 of the California Constitution.

NINETEENTH DEFENSE

To the extent one trier of fact is permitted to award penalties or punitive damages while another trier of fact determines the amount of any compensatory damages awarded, Wells Fargo's rights under the Fifth, Seventh, Eighth and Fourteenth Amendments of the United States Constitution will be violated.

TWENTIETH DEFENSE

To the extent the amount of any punitive damages awarded are unreasonable, excessive, arbitrary, or disproportionate to the amount of harm to Plaintiffs and to the general damages recovered, Wells Fargo's rights under the Fifth, Seventh, Eighth and Fourteenth Amendments of the United States Constitution and Article 1 of the California Constitution will be violated.

TWENTY-FIRST DEFENSE

The Complaint, and each purported cause of action alleged therein, is barred in whole or in part by all applicable statutes of limitation, including, but not limited to, 29 U.S.C. § 255.

TWENTY-SECOND DEFENSE

Plaintiffs and/or the members of the alleged putative group they purport to represent are not entitled to any penalty award under the FLSA because Wells Fargo did not willfully fail to comply with the compensation provisions of the FLSA, but rather acted in good faith and had reasonable grounds for believing it did not violate them.

TWENTY-THIRD DEFENSE

Some or all of the purported causes of action alleged in the Complaint are barred in whole or in part by the equitable doctrines of laches, avoidable consequences, waiver, estoppel and/or unclean hands.

PRAYER FOR RELIEF

1. Plaintiff takes nothing by the Complaint and the Complaint be dismissed with prejudice;
2. For costs of suit and reasonable attorneys' fees incurred herein;
3. For such other and further relief as this Court deems proper;
4. That this action be transferred to the Northern District of California pursuant to the Multidistrict Litigation Order, filed June 15, 2006, in *In Re Wells Fargo Home Mortgage Overtime Litigation*, MDL Case No. 1770.

DEMAND FOR JURY TRIAL

Wells Fargo hereby demands trial by jury of Plaintiff's claims for relief and Wells Fargo's defenses to the extent authorized by law.

DATED this 20th day of February, 2008.

Respectfully Submitted,

LITTLER MENDELSON, PC
One Biscayne Tower, Suite 1500
2 S. Biscayne Boulevard
Miami, Florida 33131
(305) 400-7500 (Telephone)
(305) 603-2552 (Facsimile)

By: /s/ *Jonathan A. Beckerman*
Jonathan A. Beckerman, Esq.
Florida Bar No. 0568252
E-Mail: jabeckerman@littler.com

Counsel for Defendant WELLS FARGO
BANK, NATIONAL ASSOCIATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of February 2008, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Jonathan A. Beckerman

Jonathan A. Beckerman

SERVICE LIST

Bodmer, Justine v. Wells Fargo Bank, N.A.
Case No. 2:08-CV-00074-MMH-SPC

Andrew Frisch, Esq.
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MORGAN & MORGAN
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Counsel for Plaintiff
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Counsel for Defendant Wells Fargo
Bank, National Association
(Served via Transmission of Notices of Electronic Filing)

Firmwide:84335882.1 051995.1003

**UNITED STATE DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

JUSTINE BODMER, on her own behalf
and others similarly situated,

Plaintiff,

v.

CASE NO. 2:08-CV-00074-MMH-SPC

WELLS FARGO BANK, N.A., a Foreign
Corporation,

Defendant.

TO THE CLERK OF THE COURT:

Attached hereto as Attachment 1 is the Notice To The Clerk of the Multidistrict Litigation Panel of Wells Fargo Bank's request to have the above-entitled action transferred to the Northern District of California as a "tag-along" action, pursuant to MDL Rules 7.4 and 7.5(e), and the Transfer Order of the MDL Panel, filed June 15, 2006, in the *In re Wells Fargo Home Mortgage Overtime Pay Litigation*, MDL Case No. MDL 06-1770.

DATED this 26th day of February, 2008.

Respectfully Submitted,

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One Biscayne Tower, Suite 1500
2 S. Biscayne Boulevard
Miami, Florida 33131
(305) 400-7500 (Telephone)
(305) 603-2552 (Facsimile)

By: /s/ Jonathan A. Beckerman

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Florida Bar No. 0568252
E-Mail: jabeckerman@littler.com
Counsel for Defendant WELLS FARGO
BANK, NATIONAL ASSOCIATION

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Jonathan A. Beckerman

Jonathan A. Beckerman

SERVICE LIST

Bodmer, Justine v. Wells Fargo Bank, N.A.
Case No. 2:08-CV-00074-MMH-SPC

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Bank, National Association
(Served via Transmission of Notices of Electronic Filing)

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Attachment 1

LINDBERGH PORTER, Bar No. 100091
RICHARD H. RAHM, Bar No. 130728
ALISON S. HIGHTOWER, Bar No. 112429
CONSTANCE NORTON, Bar No. 146365

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Attorneys for Defendant

WELLS FARGO HOME MORTGAGE,

a division of WELLS FARGO BANK,

NATIONAL ASSOCIATION

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

In re:

WELLS FARGO HOME MORTGAGE
OVERTIME PAY LITIGATION,

Plaintiffs,

Case No. MDL 06-1770

**NOTICE TO THE CLERK OF TAG-
ALONG ACTION AND REQUEST FOR
TRANSFER TO THE NORTHERN
DISTRICT OF CALIFORNIA**

THIS DOCUMENT RELATES TO ALL
CASES

1 TO THE CLERK OF THE JUDICIAL PANEL OF MULTIDISTRICT LITIGATION:

2 Pursuant to Multidistrict Litigation Rule 7.4 and 7.5(e), Defendant Wells Fargo Home
3 Mortgage, a division of Wells Fargo Bank, N.A. ("Wells Fargo") provides the Clerk of the Judicial
4 Panel of Multidistrict Litigation notice of the following tag-along action.

5 1. Plaintiffs in *Mevorah v. Wells Fargo Home Mortgage*, Case No. 3:05-1175
6 (N.D. Cal.), *Perez v. Wells Fargo Mortgage Co.*, Case No. 3:05-2722, and *Perry v. Wells Fargo*
7 *Home Mortgage, Inc.*, Case No. 3:05-890 (S.D. Ill.), all allege that they, and other similarly situated
8 Wells Fargo home mortgage consultants, were not paid overtime when they worked more than forty
9 hours in a week in violation of the Fair Labor Standards Act.

10 2. On June 15, 2006, the Panel ordered the *Mevorah*, *Perez*, and *Perry* actions be
11 coordinated, and that the *Perry* action be transferred pursuant to 28 U.S.C. §1407 to the United
12 States District Court for the Northern District of California based on a finding that all three actions
13 "assert similar claims against Wells Fargo under the Fair Labor Standards Act and/or state labor law
14 on behalf of groups of current and former employees of Wells Fargo who worked as loan
15 originators, loan consultants, or similar positions." See Transfer Order, a true and correct copy of
16 which is attached hereto as Exhibit A.

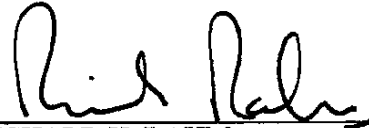
17 3. After Wells Fargo filed its petition with the Panel for coordination of the
18 *Mevorah*, *Perez* and *Perry* class actions, Brenda Miles filed an action against Wells Fargo entitled,
19 *Miles v. Wells Fargo Home Mortgage Company*, Case No. 3:06-CV-01991 (N.D. Cal.). In her
20 collective action complaint, Miles also alleges that she, and other similarly situated Wells Fargo
21 home mortgage consultants, were not paid overtime when they worked more than forty hours in a
22 week in violation of the Fair Labor Standards Act. Wells Fargo notified the Panel that the plaintiff
23 in the *Miles* action was asserting claims similar to the *Mevorah*, *Perez* and *Perry* class actions. On
24 June 15, 2006, the Panel held that the *Miles* action would be treated as a tag-along action, pursuant
25 to MDL Rule 7.4, and coordinated with the other three actions. See Transfer Order at Fn. 1
26 (Exhibit A).

27 4. On January 28, 2008, Justine Bodmer filed a purported class action entitled,
28 *Justine Bodmer v. Wells Fargo Bank, N.A.*, Case No. 2:08 CV 00074 (M.D. Fl.). See Complaint, a

1 true and correct copy of which is attached hereto as Exhibit B. Plaintiff in the *Bodmer* action alleges
2 that she and other similarly situated Wells Fargo loan originators were not paid overtime when they
3 worked more than forty hours in a week in violation of the Fair Labor Standards Act. The *Bodmer*
4 action thus qualifies as a tag along action as defined by MDL Rule 1.1.

5 5. Pursuant to MDL Rule 7.4 and 7.5(e), Wells Fargo hereby notifies the Clerk
6 of the Panel that the *Bodmer* action is a tag along action and requests that the Clerk order the action
7 be transferred to the United States District Court for the Northern District of California in
8 accordance with 28 U.S.C. § 1407 and the Panel's Transfer Order, filed June 15, 2006.

9
10 Dated: February 22, 2008

11
12 

13 RICHARD H. RAHM
14 LITTLER MENDELSON
15 A Professional Corporation
16 Attorneys for Defendant
17 WELLS FARGO HOME MORTGAGE, a
18 division of WELLS FARGO BANK,
19 NATIONAL ASSOCIATION

20 Firmwide:84279008.1 051995.1003

EXHIBIT

A

Case 3:05-cv-01175-MHP Document 96 Filed 06/20/2006 Page 3 of 5
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

JUN 15 2006

FILED
CLERK'S OFFICE

RELEASED FOR PUBLICATION

DOCKET NO. 1770

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE WELLS FARGO HOME MORTGAGE OVERTIME PAY LITIGATION**

Jason Mevorah v. Wells Fargo Home Mortgage, Inc., N.D. California, C.A. No. 3:05-1175

Genaro Perez v. Wells Fargo Mortgage Co., N.D. California, C.A. No. 3:05-2722

Derrick Perry v. Wells Fargo Home Mortgage, Inc., S.D. Illinois, C.A. No. 3:05-890

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.
LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR.,
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL**

TRANSFER ORDER

This litigation currently consists of three actions pending two districts as follows: two actions in the Northern District of California and one action in the Southern District of Illinois. Genaro Perez, the plaintiff in one of the California actions, moves the Panel, pursuant to 28 U.S.C. § 1407, for an order centralizing the three actions in the Northern District of California for coordinated or consolidated pretrial proceedings.¹ Wells Fargo Home Mortgage (Wells Fargo), the sole defendant in the three actions, supports centralization, but not in either of the two districts where constituent actions are now pending. Rather, it favors selection of the Southern District of Iowa as transferee forum. The plaintiffs in the remaining two actions now before the Panel oppose transfer. If the Panel determines to order centralization over their objections, then i) the objecting Northern District of California action plaintiff would support selection of his California district as transferee forum; and ii) the plaintiff in the Southern District of Illinois action would favor selection of his Illinois district.

On the basis of the papers filed and hearing session held, the Panel finds that these three actions involve common questions of fact, and that centralization under Section 1407 in the Northern District of California will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Plaintiffs in all actions assert similar claims against Wells Fargo under the Fair Labor Standards Act and/or state labor law on behalf of groups of current and former employees of Wells Fargo who worked as loan originators, loan consultants, or similar positions. Plaintiffs seek overtime compensation and other relief for these employees. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

¹Parties have notified the Panel of an additional related action recently filed in the Northern District of California. In light of the Panel's disposition of this docket, this action will be treated as a potential tag-along action in accordance with Panel and local court rules. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

- 2 -

The plaintiff in the Illinois action bases a significant part of his opposition to centralization on his concern that transfer will engender further delays in a litigation in which time is of the essence. We are sympathetic to this concern but view it as misplaced. Transfer under Section 1407 will have the salutary effect of assigning the present actions and any future tag-along actions to a single judge who can formulate a pretrial program that ensures that pretrial proceedings will be conducted in a manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties and the courts. In addition, under 28 U.S.C. § 1407(c), this transfer order is effective when filed with the transferee court, at which time the transferee judge is fully vested with authority to supervise pretrial proceedings — even before the physical arrival of files from the clerk of the involved transferor court. We are confident that counsel, if they deem it necessary, can i) devise ways to assist the transferor clerk in order to expedite the physical transfer of files, and ii) provide the transferee judge with copies of any documents pertinent to any immediate rulings sought from the transferee judge.

We conclude that the Northern District of California is an appropriate forum in this docket for the following reasons: i) the district is where the first filed and greater number of actions are already pending; ii) the district is an accessible location that will be geographically convenient for litigants, witnesses and counsel; and iii) the district is well equipped with the resources that this complex antitrust docket is likely to require.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the action pending outside the Northern District of California is transferred to the Northern District of California and, with the consent of that court, assigned to the Honorable Marilyn H. Patel for coordinated or consolidated pretrial proceedings with the actions pending in that district.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

EXHIBIT

B

RECEIVED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

2008 JAN 28 PM 3:13

CLERK U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT MYERS DIVISION

CASE NO.:

JUSTINE BODMER, on her own behalf
and others similarly situated,

2: 08 -cv- 74 -FTM-34 SR

Plaintiff,

v.

MMH

WELLS FARGO BANK, N.A., a Foreign Corporation,

SHERI POLSTER CHAPPELL
U.S. MAGISTRATE JUDGE

Defendant.

COMPLAINT & DEMAND FOR JURY TRIAL

1. Plaintiff, JUSTINE BODMER ("Plaintiff"), was an employee of Defendant, WELLS FARGO BANK, N.A. ("WELLS FARGO" or "Defendant"), and brings this action for unpaid overtime compensation, declaratory relief, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (the "FLSA"). Plaintiff was a home mortgage consultant and performed related activities for Defendant in Lee County, Florida.

2. Defendant, WELLS FARGO, is a foreign corporation that operates and conducts business in, among others, Lee County, Florida, and is therefore, within the jurisdiction of this Court.

3. This action is brought under the FLSA to recover from Defendant overtime compensation, liquidated damages, and reasonable attorneys' fees and costs. This action is intended to include each and every employee who worked for the Defendant at any time within the past three (3) years within the State of Florida.

4. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1337 and the FLSA and the authority to grant declaratory relief under the FLSA pursuant to 28 U.S.C. § 2201 et seq.

5. At all material times relevant to this action, Defendant was an enterprise covered by the FLSA, and as defined by 29 U.S.C. § 203(r) and 203 (s). Additionally, Plaintiff was engaged in interstate commerce during her employment with Defendant.

6. At all times relevant to this action, Defendant failed to comply with 29 U.S.C. §§ 201-209, because Plaintiff, and those similarly situated to her, performed services for Defendant for which no provisions were made by Defendant to properly pay Plaintiff, and those similarly situated to her, for those hours worked in excess of forty (40) within a work week.

7. During their employment with Defendant, Plaintiff, and those similarly situated to her, were not paid time and one-half their regular rate of pay for all hours worked in excess of forty (40) per work week during one or more work weeks.

8. Upon information and belief, the records, to the extent any exist, concerning the number of hours worked and amounts paid to Plaintiff, and others similarly situated to her, are in the possession and custody of Defendant.

RECOVERY OF OVERTIME COMPENSATION

9. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-8 above.

10. Plaintiff, and those similarly situated to her, are/were entitled to be paid time and one-half their regular rate of pay for each hour worked in excess of forty (40) per work week. During their employment with Defendant, Plaintiff, and those similarly situated to her, regularly worked overtime hours but were not paid time and one half compensation for same.

11. As a result of Defendant's intentional, willful, and unlawful acts in refusing to pay Plaintiff, and those similarly situated to her, time and one half their regular rate of pay for each hour worked in excess of forty (40) per work week in one or more work weeks, Plaintiff, and

those similarly situated to her, have suffered damages plus incurring reasonable attorneys' fees and costs.

12. As a result of Defendant's willful violation of the FLSA, Plaintiff, and those similarly situated to her, are entitled to liquidated damages.

13. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff, and all other similarly situated employees, demand judgment against Defendant for the payment of all overtime hours at one and one-half the regular rate of pay for the hours worked by them for which Defendant did not properly compensate them, liquidated damages, reasonable attorneys' fees and costs incurred in this action, declaratory relief, and any and all further relief that this Court determines to be just and appropriate.

DATED this 2nd day of August 2007.



Andrew Frisch
FL Bar No.: 27777
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Davie, FL 33314
Tel: 954-318-0268
Fax: 954-333-3515
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Trial Counsel for Plaintiff

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Attorneys for Defendant
WELLS FARGO HOME MORTGAGE,
a division of WELLS FARGO BANK,
NATIONAL ASSOCIATION

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

In re:

WELLS FARGO HOME MORTGAGE
OVERTIME PAY LITIGATION,

Plaintiffs,

Case No. MDL 06-1770

PROOF OF SERVICE

THIS DOCUMENT RELATES TO ALL
CASES

PROOF OF SERVICE

Judicial Panel on Multidistrict Litigation
Wells Fargo Home Mortgage(OT LITIGATION)
Case No. MDL06-1770

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 650 California Street, 20th Floor, San Francisco, California 94108.2693. On February 22, 2008, I served the within document(s):

- **NOTICE TO THE CLERK OF TAG-ALONG ACTION AND REQUEST FOR TRANSFER TO THE NORTHERN DISTRICT OF CALIFORNIA**
- **POS**

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses indicated below and (<i>specify one</i>): |
| <input type="checkbox"/> | deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid. |
| <input checked="" type="checkbox"/> | placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. |
| <input type="checkbox"/> | By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier (FEDERAL EXPRESS) and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier. |
| <input type="checkbox"/> | By messenger service. I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a professional messenger service for service (First Legal Services T(415) 626-3111). |
| <input checked="" type="checkbox"/> | By fax transmission. AS APPROVED BY CLERK OF THE PANEL and COURTESY COPY FOR ALL COUNSEL, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, for our file. |
| <input type="checkbox"/> | By e-mail or electronic transmission. AS A COURTESY, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. |

Robert W. Thompson, Esq.
CALLAHAN, MCCUNE & WILLIS, APLC
111 Fashion Lane
Tustin, CA 92780

Phone Number: (714) 730-5700
Fax Number: (714) 730-1642

James A. Jones, Esq.
GILLESPIE, ROZEN, WATSKY, MOTLEY & JONES, P.C.
3402 Oak Grove Ave., Suite 200
Dallas, TX 75204

Phone Number: 214-720-2009
Fax Number: (214) 720-2291

1 George A. Hanson, Esq.
2 **STUEVE, SIEGEL, HANSON & WOODY, LLP**
3 460 Nichols Rd., Suite 200,
4 Kansas City, MO 64112

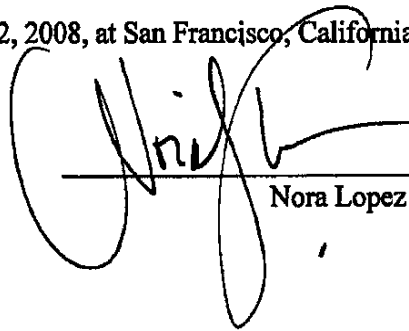
5 Phone Number: (816) 714-7100
6 Fax Number: (816) 714-7101

Clerk of the Panel Judicial Panel on
Multidistrict Litigation
Thurgood Marshall Federal Judiciary Building
One Columbus Circle,
N.E., Room G-255, North Lobby
Washington, D.C. 20002-8004

Phone Number: (202) 502-2800
Fax Number: (202) 502-2888

7 I declare under penalty of perjury under the laws of the State of California that the
8 above is true and correct.

9 Executed on February 22, 2008, at San Francisco, California.

10
11 
12 _____

Nora Lopez Torres

13 Firmwide: 84363946.1 051995.1003
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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

**JUSTINE BODMER on her own behalf and
others similarly situated,**

Plaintiff,

v.

Case No. 2:08-cv-74-FtM-34SPC

**WELLS FARGO BANK, N.A. a Foreign
Corporation,**

Defendant.

**INTERESTED PERSONS ORDER
FOR CIVIL CASES**

This Court makes an active effort to screen every case in order to identify parties and interested corporations in which any assigned judge may be a shareholder, as well as for other matters that might require consideration of recusal. It is therefore

ORDERED that, within **eleven** days¹ from the date of this order the Defendant **shall file and serve** a Certificate of Interested Persons and Corporate Disclosure Statement. (See Attachment A)

FURTHER ORDERED that no party may seek discovery from any source before filing and serving a. A motion, memorandum, response, or other paper — including emergency motion — may be denied or stricken unless the filing party has previously filed and served its Certificate of Interested Persons and Corporate Disclosure Statement.

¹Intermediate Saturdays, Sundays, and specified legal holidays are *included* in the computation of periods of eleven days or more. See Fed.R.Civ.P. 6(a); Local Rule 4.20. If this order was served by mail, add three days to the prescribed period. Fed.R. Civ.P 6(e); Local Rule 4.20(a)(2). Service by facsimile constitutes a method of hand delivery for the purpose of computing the time within which any response is required. Local Rule 1.07(c).

FURTHER ORDERED that each party has a continuing obligation to file and serve an amended Certificate of Interested Persons and Corporate Disclosure Statement within eleven days of 1) discovering any ground for amendment, including notice of case reassignment to a different judicial officer; or 2) discovering any ground for recusal or disqualification of a judicial officer. A party should not routinely list an assigned district judge or magistrate judge as an “interested person” absent some non-judicial interest.

FURTHER ORDERED that, in order to assist the Court in determining when a conflict of interest may exist, particularly when ruling on matters formally assigned to another judge, each party shall use the full caption of the case — including the names of all parties and intervenors — on all motions, memoranda, papers, and proposed orders submitted to the Clerk. *See* Fed.R.Civ.P. 10(a);

Local Rule 1.05(b) (“*et al.*” discouraged). _____
 April 8, 2008

 JOHN E. STEELE

John E. Steele
 United States District Court Judge

 MARCIA MORALES HOWARD

Marcia Morales Howard
 United States District Court Judge

 DOUGLAS N. FRAZIER

Douglas N. Frazier
 United States Magistrate Judge

 SHERI POLSTER CHAPPELL

Sheri Polster Chappell
 United States Magistrate Judge

ATTACHMENT A

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT

I hereby disclose the following pursuant to this Court's interested persons order:

1. The name of each person, attorney, association of persons, firm, law firm, partnership, and corporation that has or may have an interest in the outcome of this action — including subsidiaries, conglomerates, affiliates, parent corporations, publicly-traded companies that own 10% or more of a party's stock, and all other identifiable legal entities related to *any* party in the case:

[insert list]

2. The name of every other entity whose publicly-traded stock, equity, or debt may be substantially affected by the outcome of the proceedings:

[insert list]

3. The name of every other entity which is likely to be an active participant in the proceedings, including the debtor and members of the creditors' committee (or twenty largest unsecured creditors) in bankruptcy cases:

[insert list]

4. The name of each victim (individual or corporate) of civil and criminal conduct alleged to be wrongful, including every person who may be entitled to restitution:

[insert list]

I hereby certify that, except as disclosed above, I am unaware of any actual or potential conflict of interest involving the district judge and magistrate judge assigned to this case, and will immediately notify the Court in writing on learning of any such conflict. I further certify that I have inserted "None" if there is no actual or potential conflict of interest.

[Date]

[Counsel of Record or *Pro Se* Party]
[Address and Telephone]

[Certificate of Service]

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

JUSTINE BODMER, on her own behalf
and others similarly situated,

Plaintiff,

v.

CASE NO.: 2:08-cv-00074-MMH-SPC

WELLS FARGO BANK, N.A., a Foreign Corporation,

Defendant.

_____ /

**PLAINTIFF'S CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

I hereby disclose the following pursuant to this Court's interested persons order:

1.) the name of each person, attorney, association of persons, firm, law firm, partnership, and corporation that has or may have an interest in the outcome of this action – including subsidiaries, conglomerates, affiliates, parent corporation, publicly-traded companies that own 10% or more of a party's stock, and all other identifiable legal entities related to *any* party in the case:

1. Justine Bodmer – Plaintiff
2. Wells Fargo Bank, N.A. – Defendant
3. Morgan & Morgan – Counsel for Plaintiff
4. Andrew Frisch, Esquire – Counsel for Plaintiff

2.) the name of every other entity whose publicly-traded stock, equity, or debt may be substantially affected by the outcome of the proceedings:

1. None known.

3.) the name of every other entity which is likely to be an active participant in the

proceedings, including the debtor and members of the creditors' committee (or twenty largest unsecured creditors) in bankruptcy cases:

1. None other than the persons identified in 1.) above.
- 4.) the name of each victim (individual or corporate) of civil and criminal conduct alleged to be wrongful, including every person who may be entitled to restitution:

1. Justine Bodmer, Plaintiff. Additionally, as this is styled as a collective action, Plaintiff maintains that there are additional "similarly situated" employees of Defendant who were subjected to the same illegal pay practices complained of by Plaintiff, whose names and contact information currently are unknown. Therefore, as discovery commences and the identity of the additional employees becomes known, Plaintiff will supplement this disclosure.

I hereby certify that I am unaware of any actual or potential conflict of interest involving the district judge and magistrate judge assigned to this case, and will immediately notify the Court in writing on learning of any such conflict.

DATED this 11th day of February 2008.

Respectfully submitted,

/s ANDREW FRISCH

ANDREW FRISCH

FL Bar No.: 27777

MORGAN & MORGAN

7450 Griffin Road, Suite 230

Davie, Florida 33324

Tel: 954-318-0268

Fax: 954-333-3515

E-Mail: AFrisch@forthepeople.com

Trial Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via U.S. Mail to Corporation Service Company, Registered Agent for Defendant, 1201 Hays Street, Tallahassee, FL 32301, this 11th day of February 2008.

/s ANDREW FRISCH
ANDREW FRISCH

FILED
RECEIVEDUNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

2008 APR 21 PM 12:03

DIRECT REPLY TO:
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FOR ORLANDO
Thurgood Marshall Federal
Judiciary Building
Room G-255, North Lobby
Washington, D.C. 20002
Telephone: [202] 502-2800
Fax: [202] 502-2888
<http://www.jpml.uscourts.gov>CHAIRMAN:
Judge John G. Heyburn II
United States District Court
Western District of KentuckyMEMBERS:
Judge D. Lowell Jensen
United States District Court
Northern District of CaliforniaJudge J. Frederick Motz
United States District Court
District of MarylandJudge Robert L. Miller, Jr.
United States District Court
Northern District of IndianaJudge Kathryn H. Vratil
United States District Court
District of KansasJudge David R. Hansen
United States Court of Appeals
Eighth CircuitJudge Anthony J. Scirica
United States Court of Appeals
Third Circuit

March 26, 2008

FILED

APR 16 2008

Richard W. Wieking, Clerk
Phillip Burton U.S. Courthouse
Box 36060
450 Golden Gate Avenue
San Francisco, CA 94102-3489RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Re: MDL No. 1770 -- IN RE: Wells Fargo Home Mortgage Overtime Pay Litigation

(See Attached CTO-1)

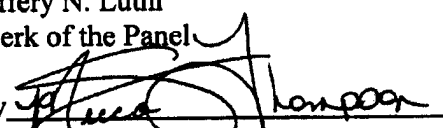
Dear Mr. Weiking:

I am enclosing a certified copy and one additional copy of a conditional transfer order filed by the Panel in the above-captioned matter on March 10, 2008. As stipulated in Rule 7.4(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), transmittal of the order has been stayed 15 days to give any party an opportunity to oppose the transfer. The 15-day period has now elapsed, no opposition was received, and the order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

A list of involved counsel is attached.

Very truly,

Jeffery N. Lüthi
Clerk of the PanelBy 
Mecca S. Thompson
Docket Specialist

Attachment

cc: Transferee Judge: Judge Marilyn Hall Patel
Transferor Judge: Judge Marcia Morales Howard
Transferor Clerk: Sheryl L. Loesch

JPML Form 36

**UNITED STATES JUDICIAL PANEL
ON
MULTIDISTRICT LITIGATION**

CHAIRMAN:
Judge John G. Heyburn II
United States District Court
Western District of Kentucky

MEMBERS:
Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vratil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

Judge Anthony J. Scirica
United States Court of Appeals
Third Circuit

DIRECT REPLY TO:

Jeffery N. Lüthi
Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
Judiciary Building
Room G-255, North Lobby
Washington, D.C. 20002

Telephone: (202) 502-2800
Fax: (202) 502-2888
<http://www.jpml.uscourts.gov>

March 26, 2008

Richard W. Wieking, Clerk
Phillip Burton U.S. Courthouse
Box 36060
450 Golden Gate Avenue
San Francisco, CA 94102-3489

FILED

APR 16 2008

Re: MDL No. 1770 -- IN RE: Wells Fargo Home Mortgage Overtime Pay Litigation

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

(See Attached CTO-1)

Dear Mr. Weiking:

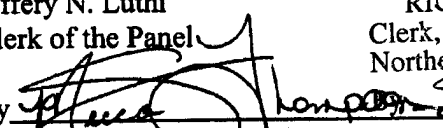
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The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

A list of involved counsel is attached.

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By 
Mecca S. Thompson
Docket Specialist

I hereby certify that the annexed instrument is a true and correct copy of the original on file in my office.
ATTEST:

RICHARD W. WIEKING
Clerk, U.S. District Court
Northern District of California

Date 4-16-08

Attachment

cc: Transferee Judge: Judge Marilyn Hall Patel
Transferor Judge: Judge Marcia Morales Howard
Transferor Clerk: Sheryl L. Loesch

JPML Form 36

Inasmuch as no objection is pending at this time, the stay is lifted.

MAR 26 2008

CLERK'S OFFICE
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

MAR 10 2008

FILED
CLERK'S OFFICE

IN RE: WELLS FARGO HOME MORTGAGE OVERTIME
PAY LITIGATION

Justine Bodmer v. Wells Fargo Bank, N.A.,
M.D. Florida, C.A. No. 2:08-74

)
)

MDL No. 1770

CONDITIONAL TRANSFER ORDER (CTO-1)

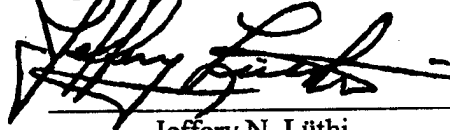
On June 15, 2006, the Panel transferred one civil action to the United States District Court for the Northern District of California for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. See 435 F.Supp.2d 1338 (J.P.M.L. 2006). With the consent of that court, all such actions have been assigned to the Honorable Marilyn Hall Patel.

It appears that the action on this conditional transfer order involves questions of fact that are common to the action previously transferred to the Northern District of California and assigned to Judge Patel.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), this action is transferred under 28 U.S.C. § 1407 to the Northern District of California for the reasons stated in the order of June 15, 2006, and, with the consent of that court, assigned to the Honorable Marilyn Hall Patel.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Northern District of California. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:



Jeffery N. Lüthi
Clerk of the Panel

A CERTIFIED TRUE COPY

APR 10 2008

ATTEST
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION